

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.3282 of 2018

ORDER:

Heard both sides.

2. Sri P.Ganga Rami Reddy, learned counsel, appearing on behalf of contesting respondent Nos.1, 3 and 4. Notice on respondent Nos.2 and 5 served not appearing.

3. Perused the impugned order of the lower Court dismissing the application, under Section 5 of the Indian Limitation Act, to condone the delay of 39 days in I.A.No.1306 of 2016, by order, dated 15.03.2018, in the pending un-numbered appeal maintained against the decree and judgment, dated 13.10.2016, in O.S.No.182 of 2008 of the I Additional Senior Civil Judge, Nellore, and the grounds of revision.

4. The delay is 39 days. The explanation for the delay is the 1st petitioner, who is looking after the matter, could not contact the counsel having been suffering from swelling of his legs and was hospitalised with country medicine in taking treatment at Chittoor and out of house , thereby the delay occurred. Though respondents seriously contested the matter, once the approach required is pragmatic and never be too technical that too from the fundamental principle that no one could allow the time to be lapsed in seeking the remedy, but for same reason or other, out of which, the Court has to cull out existence of sufficient cause or not.

5. Having regard to the above, the impugned order since unsustainable is set aside, by allowing the revision and by allowing the application in I.A.No.1306 of 2016 on the file of the learned Principal District Judge, Nellore, by condoning the delay of 39 days, which is subject to costs of Rs.500/- (Rupees five hundred only) payable to the Army Welfare Fund and to file the proof before the trial Court within one week, from the date of receipt of a copy of the order. Any non-compliance automatically without any further reference to the Court upholds the order of the lower Court.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

24th August 2018.

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Dr. B. SIVA SANKARA RAO, J

